

**JUDGE DANIELS**  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

**08 CV 00451**

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FREDERIC JOEL COHEN, M.D., P.C. (Edward J. Raynie  
and Katena L. Raynie),

Civ. No. \_\_\_\_\_

Plaintiff,

-against-

UNITED HEALTHCARE OF NEW YORK, INC. and  
CABLE AND WIRELESS USA, INC.,

Defendants.

**NOTICE OF REMOVAL**

JAN 17 2008

**U.S.D.C. S.D. N.Y.**  
**CASHEERS**

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Defendant/Petitioner herein, UNITED HEALTHCARE OF NEW YORK, INC.

("United"), by its attorneys, RIVKIN RADLER LLP, respectfully shows as follows:

1. On or about December 18, 2007 plaintiff FREDERIC JOEL COHEN ("Plaintiff") commenced an action against United by filing in the Civil Court of the State of New York, County of New York a Summons and Endorsed Complaint dated October 25, 2007 (the "Complaint") seeking damages for the alleged failure by United to pay to Plaintiff certain healthcare benefits allegedly due from United for medical services allegedly provided by Plaintiff to United enrollees Edward J. Raynie and Katena L. Raynie. Plaintiff purportedly asserts those claims against United pursuant to assignments of benefits it allegedly obtained from those enrollees.

2. Thereafter, Plaintiff served its Summons and Complaint in this action upon United. A true and correct copy of Plaintiff's Summons and Complaint dated October 25, 2007 is annexed hereto is Exhibit "A".

3. United has ascertained that the enrollees to whom Plaintiff allegedly provided medical services for which it seeks to recover healthcare benefits from United in this action are enrolled in an employee welfare benefit plan governed by the Employee Retirement Income Security Act of 1974, 29 U.S.C. §1000, *et seq.*, as amended ("ERISA").

4. This is a civil action in which the United States District Court has original jurisdiction pursuant to 28 U.S.C. §1331. Plaintiff's claims seeking payment by United of healthcare benefits allegedly due to persons enrolled in an employee welfare benefit plan seek to enforce the terms of that plan, and thus are dependent upon a claim of right under the laws of the United States, specifically ERISA, which preempts the state common law claims asserted by Plaintiff in its Complaint. *See Metropolitan Life Ins. Co. v. Taylor*, 48 U.S. 58, 51 (1987); *Massachusetts Mut. Life Ins. Co. v. Russell*, 473 U.S. 134, 146 (1985).

5. For the foregoing reasons, this action may be removed to this Court pursuant to 28 U.S.C. §1441.

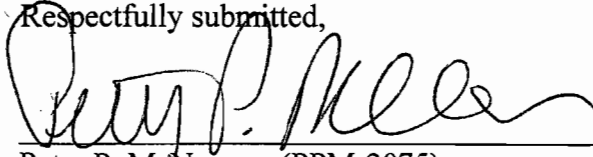
6. Venue is proper in the United States District Court for the Southern District of New York pursuant to 28 U.S.C. §1446(a).

7. This Notice of Removal is being filed within a time period required by law. 28 U.S.C. § 1446(b). Written notice of the removal will be given to the adverse party as required by law, and a true and correct copy of this Notice of Removal will promptly be filed with the Clerk of Civil Court of the State of New York, County of New York, as provided by law.

**WHEREFORE**, United as Petitioner for removal requests that the above-named action now pending against it in the Civil Court of the State of New York, County of New York, be removed to the United States District Court for the Southern District of New York.

Dated: Uniondale, New York  
January 17, 2008

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter P. McNamara", written over a horizontal line.

Peter P. McNamara (PPM-2075)

RIVKIN RADLER LLP

Attorneys for Defendant

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RR File No.: 009456-00220

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